UNITED NATIONS

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ENGLISH AND SPANISH ONLY
ORIGINAL: SPANISH

LAWS AND REGULATIONS

PROMULGATED TO GIVE EFFECT TO THE PROVISIONS OF THE INTERNATIONAL TREATIES ON NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES

In accordance with the relevant articles of the international treaties on narcotic drugs and psychotropic substances, the Secretary-General has the honour to communicate the following legislative texts.

PERU

Communicated by the Government of Peru

NOTE BY THE SECRETARIAT

(a) Some editing of texts may be done by the Secretariat in the interest of clarity. In this connection, words in square brackets [ ] have been added or changed by the Secretariat.

(b) Only passages directly relevant to the control of narcotic drugs or psychotropic substances have been reproduced in this document. Non-relevant parts of laws and regulations have been deleted by the Secretariat; such deletions are indicated by [...].

ADMINISTRATIVE ORDER No. 286-CME-PJ [, 1996]

ESTABLISHING SUPPLEMENTARY REGULATIONS FOR THE PURPOSE OF FACILITATING JUDICIAL ACTIVITIES IN CONNECTION WITH DRUG TRAFFICKING OFFENCES

V.97 24729 (E) (a \1997\mar 2)

ADMINISTRATIVE ORDER

No. 286-CME-PJ [, 1996]

Establishing supplementary regulations for the purpose of facilitating judicial activities in connection with drug trafficking offences

Lima, 13 December 1996

THE EXECUTIVE COMMISSION OF THE JUDICIARY

WHEREAS:

The Executive Commission of the Judiciary, which was established under Law No. 26546, has assumed the regulatory and administrative functions of the Judiciary for an exceptional period;

Under Law No. 26623 of 18 June 1996, the powers of the Executive Commission were extended to allow the comprehensive restructuring of the Judiciary in matters relating to the judicial office, career and judicial service organization regulations;

By Administrative Order No. 097-CME-PJ, the Higher Court Specializing in Drug Trafficking Offences was established and the authority of its specialized divisions and judges to try drug trafficking offences was laid down;

It is necessary to establish supplementary regulations with a view to the efficient and timely conduct of judicial activities in the specialist field of offences relating to drug trafficking;

In exercise of the powers conferred by Laws Nos. 26546 and 26623, and pursuant to the agreements reached at the session held this day,

ISSUES THE FOLLOWING ORDER:

One. In accordance with the stipulations of article 2 of Administrative Order No. 097-CME-PJ, judges specializing in drug trafficking offences shall have the capacity of visiting justices whose jurisdictional authority shall extend over the entire national territory and who may visit the place of commission of an offence for purposes of the relevant inquiry.

Two. Judges and members of the judiciary specializing in drug trafficking offences in their capacity as visiting justices shall, as appropriate, discharge their duties on a special overtime basis, at the actual premises of the chambers and superior divisions of the courts at the places to which they have travelled, for which purpose they shall be provided with such logistic facilities as they may require for the effective discharge of their duties.

Three. The judges and divisions specializing in drug trafficking offences shall have discretional powers for the performance of their judicial functions. Accordingly, their jurisdictional authority shall be determined in accordance with the following directions:

1. They shall be authorized to hear cases in which the subject-matter of the offence exceeds:

- 2 (two) kilograms of cocaine paste;
- 500 (five hundred) grams of cocaine hydrochloride;
- 4 (four) kilograms of marijuana and 1 (one) kilogram of its derivative;
- 1 (one) kilogram of opium;
- 300 grams of heroin.

2. They shall be authorized to hear cases involving drug trafficking offences referred to in the present Order and those provided for in articles 4 and 6 of Administrative Order No. 097-CME-PJ, including cases which, by reason of their complexity or connection with other offences, merit a special investigation.

The criminal court judges shall by way of exception hear cases where the subject-matter of the offence does not exceed, in amount, the quantities specified in paragraph one of this article if, for reasons of geography, security or *force majeure*, those cases cannot be tried by the judges of the Court Specializing in Drug Trafficking Offences. In such eventualities, the criminal court judges shall be required to notify the competent criminal court division of the Higher Court Specializing in Drug Trafficking Offences of the orders issued by them to initiate or dismiss the proceedings, including, in both instances, authenticated copies of the police report. The criminal court division may at its discretion rule that the case shall be tried by a judge specializing in drug trafficking offences.

Four. The divisions of the Higher Court Specializing in Drug Trafficking Offences shall be responsible for hearing, in appeal proceedings, any incidental pleadings arising as a result of the handling of cases by the judges specializing in drug trafficking offences.

Five. Judges may be appointed with responsibility for carrying out inquiries and urgent measures on an exceptional basis in cases where the judges specializing in drug trafficking offences are unable to visit the place of commission of the offence for reasons of geographical distance, difficulty of access or *force majeure*, and be called upon to perform the following functions:

(a) They shall visit places at which their presence is required for the relevant procedural purposes, in accordance with the provisions laid down in the present Order and shall take cognizance of the charges filed by the representatives of the Department of Public Prosecution in such cases;

(b) They shall issue the order initiating the proceedings and shall carry out at the place of occurrence any measures whose postponement is not possible such as examinations and, where applicable, confrontations, judicial verifications, taking of evidence and any other supplementary measures which may prove necessary for the purposes of the investigation;

(c) They shall intervene in the conduct of the investigation by reason of indisposition, refusal, vacation, leave of absence and any other situation temporarily preventing the attendance of the judge dealing with the case.

Where the attendance of the judge responsible for inquiries and urgent measures of the Higher Court Specializing in Drug Trafficking Offences at the place of commission of the offence is materially impossible, the judge at the place of occurrence shall be responsible for carrying out the measures referred to above.

In both instances, the judges shall inform the judge specializing in drug trafficking offences of the action taken, for purposes of proceeding with the case.

Six. Any cases which are pending shall continue to be heard by the judges specializing in drug trafficking offences until their completion.

Seven. It is directed that the Office of the Presiding Judge of the Court Specializing in Drug Trafficking Offences shall, in coordination with the Executive Secretariat of the Judiciary, carry out the necessary steps for the execution of the present Order, particularly with regard to the appointment of judges with responsibility for inquiries and urgent measures of the Court Specializing in Drug Trafficking Offences.

Eight. The final paragraph of article 2 of Administrative Order No. 097-CME-PJ shall be repealed.

Nine. Article 9 of Administrative Order No. 097-CME-PJ shall be amended to read as follows:

"Article 9. The Presiding Judge of the Higher Court Specializing in Drug Trafficking Offences shall submit to the Executive Commission of the Judiciary a proposal concerning the number of specialized chambers and divisions which it is necessary to establish with a view to fulfilment of the objects of the aforesaid Higher Court".

Ten. The present Administrative Order shall enter into force on the day following its publication.

To be recorded, communicated and published.

VICTOR RAUL CASTILLO CASTILLO

PEDRO IBERICO MAS

LINO RONCALLA VALDIVIA

JOSE DELLEPIANE MASSA